

Serial No. 10/731,949
60130-1980; 00MRA0443

REMARKS

Claims 1-16 are currently pending in the application including independent claim 1. New claims 17-20 have been added including independent claim 17.

Claim 6 is indicated as allowable. Claim 6 has been rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Thus, claim 6 is now in condition for allowance.

§ 102 rejections

Claims 1, 2, 4, 7-12, 15, and 16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Bartoli. Claim 1 has been amended to include the feature of the second base part being formed from a foamed plastics material. Bartoli does not disclose this feature. Instead, Bartoli teaches first and second components 4, 5 both being made from polypropylene, which is not a foamed material. Bartoli does not disclose, suggest, or teach the use of any type of foamed material for forming the first and second components 4, 5. Thus, Bartoli cannot anticipate claim 1 as amended, and applicant respectfully requests that the rejection be withdrawn.

§ 103 rejections

Claims 3 and 5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bartoli in view of Salloum. As discussed above, claim 1 has been amended to include the feature of the second base part being formed from a foamed plastics material. Bartoli does not disclose this feature. Salloum also does not disclose or teach this feature. Thus, the combination of Bartoli and Salloum does not teach all of the claimed elements and applicant respectfully requests that the rejection be withdrawn.

Claims 13 and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bartoli in view of Renault. The examiner admits that Bartoli does not disclose, suggest, or teach all of the features of applicant's claims and relies on teachings from Renault to modify Bartoli. When it is necessary to select elements from different references in order to form the claimed invention, there must be some suggestion or motivation to make the selection. Obviousness

Serial No. 10/731,949
60130-1980; 00MRA0443

cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. The extent to which such suggestion must be explicit in, or referred from, the references, is decided on the facts of each application in light of the prior art and its relationship to the claimed invention. It is impermissible to engage in a hindsight reconstruction of the claimed invention, using applicant's structure as a template and selecting elements from the references to fill the gaps. The references themselves must provide some teaching whereby applicant's combination would have been obvious. In re Gorman, 933 F.2d 982, 986, 18 USPO2d 1885, 1888 (Fed. Cir. 1991).

The examiner argues that it would have been obvious to make one of the bases in Bartoli from "a foam material that is softer than the other base, as taught by Renault, to provide the desired energy absorption characteristics." Applicant respectfully disagrees. Bartoli teaches using two rigid plastic plates 4, 5, which are forced into each other for shock absorbing purposes in the head rest of a vehicle seat. Renault discloses a floor liner that is used in the legroom area of a vehicle, which includes both shock absorbing and sound deadening characteristics.

Renault discloses an upper carpet layer 2, a middle layer 4 attached to the carpet layer 2 where the middle layer includes a plurality of shock absorbing elements 4, and a spring layer area 8 located between the shock absorbing elements 4. The spring layer's primary purpose is for sound deadening purposes, not shock absorbing, see column 1, lines 29-37. Renault's primary purpose was to provide a floor liner having a predetermined thickness that is stiff enough to reduce energy generated during collisions and which was soft enough to provide sufficient noise insulating properties. See column 1, lines 38-54.

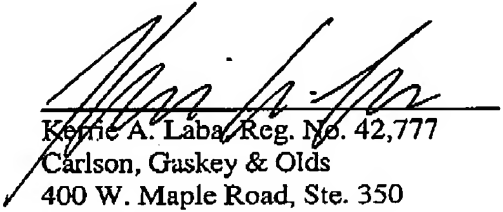
Renault solved this problem by using the shock absorbing elements 4 to reduce energy generated during collisions and by using the spring layer 8 to provide noise insulation. See column 3, lines 11-16 and lines 43-49. Renault does not disclose relative displacement between first and second base parts for the purpose of absorbing energy. Further, there is no teaching in Renault of using a combination of a softer material and a harder material in elements that move relative to each other for controlling deformation characteristics.

Serial No. 10/731,949
60130-1980; 00MRA0443

The only teaching of such a combination is found in applicant's own disclosure, which cannot be used as a basis for modifying Bartoli. The examiner is clearly engaging in a hindsight reconstruction of the claimed invention, using applicant's structure as a template and selecting elements from the Bartoli and Renault to fill the gaps. For the reasons set forth above, applicant respectfully requests that the rejections under 35 U.S.C. 103(a) be withdrawn.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited. Applicant believes that no additional fees are necessary, however, the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,



Kerrie A. Laba, Reg. No. 42,777
Carlson, Gaskey & Olds
400 W. Maple Road, Ste. 350
Birmingham, MI 48009
(248) 988-8360

Dated: January 10, 2005

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, (703) 872-9306, on January 10, 2005.



Laura Combs